

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

UNITED STATES OF AMERICA)	
)	
v.)	No. 3:02-00054
)	JUDGE CAMPBELL
RICHARD NANEZ)	

ORDER

Pending before the Court is a Motion For Reconsideration And Modification Of Sentence Pursuant To 18 U.S.C. § 3582(c)(2) (Docket No. 237), filed by Defendant Nanez, pro se. Through the Motion, Defendant Nanez seeks reduction of his sentence pursuant to 18 U.S.C. § 3582(c)(2), which provides that the Court may not modify a term of imprisonment once it has been imposed, except:

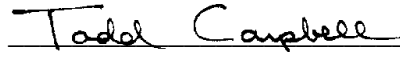
(2) in the case of a defendant who has been sentenced to a term of imprisonment based on a sentencing range that has subsequently been lowered by the Sentencing Commission pursuant to 28 U.S.C. 994(o), upon motion of the defendant or the Director of the Bureau of Prisons, or on its own motion, the court may reduce the term of imprisonment, after considering the factors set forth in section 3553(a) to the extent that they are applicable, if such a reduction is consistent with applicable policy statements issued by the Sentencing Commission.

Defendant contends that his sentence should be reduced under this section based on Amendment 518 to the United States Sentencing Guidelines that became effective on November 1, 1995. U.S.S.G. App. C, amendment 518.

The Defendant was sentenced on July 14, 2006. (Docket No. 222). Therefore, Amendment 518 was already in effect when the Defendant was sentenced, and therefore, did not “subsequently lower” Defendant’s sentencing guideline range as required for application of Section 3582(c)(2). See, e.g., United States v. Hartin, 321 Fed.Appx. 408, 2009 WL 1024295 (5th Cir. April 16, 2009). In addition, Amendment 518 is not one of the amendments listed as

retroactive under U.S.S.G. § 1B1.10(c), which is also required for application of Section 3582(c)(2). Id.; United States v. Padilla, 244 F.3d 135, 2000 WL 1901524 (5th Cir. Dec. 13, 2000); United States v. Washington, 584 F.3d 693, 694 n. 1 (6th Cir. 2009). Accordingly, Defendant's Motion is without merit, and is DENIED.

It is so ORDERED.


TODD J. CAMPBELL
UNITED STATES DISTRICT JUDGE